

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 CATHY ENWERE,

13 Plaintiff,

14 v.

15 Terman Associates, L.P., dba
16 Terman Apartments, et al.,

17 Defendants.

Case No.: C 07-1239 JF (PVT)

**ORDER RE PLAINTIFF'S "RESPONSE
TO MOTION TO COMPEL ORDER
REQUESTING TIME TO PREPARE
AND INTER [sic] SUMMARY
JUDGEMENT"**

18 On July 23, 2008, Plaintiff filed a document entitled "Response to Motion to Compel Order
19 Requesting Time to Prepare and Inter [sic] Summary Judgement."¹ Based on this document and the
20 file herein,

21 IT IS HEREBY ORDERED that Plaintiff's request for time to prepare a motion for summary
22 judgment against DFEH² and HUD³ is denied. Summary judgment pursuant to Rule 56 is only
23 available against the actual parties to an action. Neither DFEH nor HUD is a party to this action. As
24 the court noted in its last order, the only jurisdiction it has over *non-parties* is by virtue of Plaintiff

26 ¹ The holding of this court is limited to the facts and the particular circumstances
27 underlying the present motion.

28 ² "DFEH" refers to the California Department of Fair Employment and Housing.

³ "HUD" refers to the U.S. Department of Housing and Urban Development .

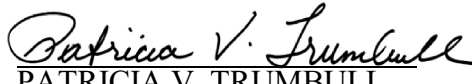
1 serving the non-party with a Rule 45 subpoena.

2 Plaintiff served DFEH with a subpoena, and the court has now issued an order on Plaintiff's
3 motion to compel compliance with that subpoena. The court has no jurisdiction to grant any other
4 relief to Plaintiff with regard to the subpoena to DFEH, other than ensuring DFEH complies with the
5 order the court has issued.

6 Plaintiff complains she did not receive the response from DFEH by July 22, 2008 as ordered
7 by the court. The court notes that the day a response is due is the date it must be filed with the court
8 and *mailed* to Plaintiff, not the date by which Plaintiff must receive it. DFEH *did* file its response on
9 July 22, 2008. The court assumes Plaintiff will have received her copy of DFEH's response by the
10 time she receives this order. Plaintiff is always welcome to check the court's file the day after⁴ the
11 deadline for a document to be filed to view the document in the court's file (on the court's publicly
12 available computer for documents that are filed using the court's Electronic Case Filing system
13 "ECF").

14 It appears Plaintiff has not yet served a Rule 45 subpoena on HUD. Unless and until Plaintiff
15 serves HUD with a valid subpoena, the court has no jurisdiction to order HUD to do anything in
16 connection with Plaintiff's case.

17 Dated: 7/24/08

18 
19 PATRICIA V. TRUMBULL
20 United States Magistrate Judge
21
22
23
24
25
26
27

28 ⁴ Documents filed using ECF are sometimes not filed until after the clerk's office closes
for the day.

1

2 *Counsel automatically notified of this filing via the court's Electronic Case Filing system.*

3

4 copies mailed on 7/24/08 to:

5 Cathy Enwere
1263 Madera Ave.
6 Menlo Park, CA 94025

7

8

9

/s/ Donna Kirchner for
CORINNE LEW
Courtroom Deputy

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28